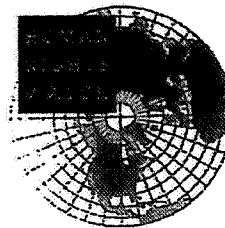


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LAST CHANCE FOR TURKEY'S DISPLACED?

Human Rights Watch Briefing Paper

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Summary

Turkish state forces violently and illegally displaced upwards of 380,000 Kurdish villagers in the 1990s during a conflict with the Kurdish Workers Party (PKK) in southeast Turkey. Gendarmes and commandos burned villagers out of their homes and destroyed their crops and livestock. The operations were marked by torture, extrajudicial execution, and "disappearance." Although the government claims that a quarter of the internally displaced have returned, these figures cannot be substantiated.

Turkey became a candidate for European Union (E.U.) membership in 1999. In order to begin negotiations for membership, Turkey must fulfil a set of human rights tasks set by the European Commission, which includes a requirement that "the return of internally displaced persons to their original settlements should be supported and speeded up." It is vital to the welfare of this large group—the poorest of the poor from the poorest region of the country—that concrete progress is made on this requirement. The displaced have no real hope of achieving justice other than through the leverage provided by the accession process. However, the Turkish government has so far failed to take any significant action to address the dire situation of the displaced or facilitate their return to their former homes. It has not implemented recommendations from Turkish and international bodies that have investigated the problem, and it is resisting the involvement of the international community in this process, despite recommendations from the United Nations (U.N.) and Council of Europe.

On December 17, the European Council will decide whether Turkey has met the human rights conditions, and whether a date should be set for membership negotiations to begin. The next three months may provide the last chance for the E.U. to insist on a concrete plan of action that will guarantee that Turkey's internally displaced Kurds can return to their homes in dignity and safety, with appropriate assistance and compensation. If the present Turkish government does not take concrete steps to begin a successful returns program during this period, it is unlikely that this injustice will ever be righted. Human Rights Watch therefore recommends that, at a minimum, the Turkish government agree to establish a partnership with the U.N. agencies already present in the country and the E.U. to plan a return program in conformity with the U.N. Guiding Principles on Internal Displacement, to arrange funding, and to ensure that the plan is implemented.

The Turkish people were shocked in June 2004 when Croatia moved ahead of Turkey to start E.U. accession negotiations. Croatia had only applied for full membership in 2003, while Turkey had applied already in 1987. However, in contrast to Turkey, Croatia had taken concrete steps to address problems of displacement of Croatian Serbs in

neighboring countries by cooperating with intergovernmental agencies including the United Nations (U.N.) and the Organization for Security and Co-operation in Europe (OSCE). Turkey should stop fending off the legitimate involvement of international agencies and make a formal declaration to integrate them in its return plans.

Background

Government forces drove thousands of rural farming communities out of their villages in southeast Turkey in the 1990s as part of a scorched earth policy against the illegal armed PKK. The evictions were unlawful and violent. Villagers' homes were torched, and their crops and livestock destroyed. Security forces killed or "disappeared" scores of villagers. The Turkish army moved out any inhabitants who refused to join the paramilitary "village guards," armed and paid by the government to fight the PKK. A smaller number of communities that did join the village guards were forced to leave under the pressure of relentless PKK attacks. Most of the survivors fled to towns and cities throughout the country, where they have spent the last decade living in poverty and overcrowded conditions.

The stark facts of the original displacement are periodically restated in the form of judgments at the European Court of Human Rights (ECHR) against the Turkish government for the destruction of homes, crops, and livestock, extrajudicial execution, and "disappearances" committed by soldiers during the clearances. In February 2004, for example, the ECHR found that Turkish soldiers who had burned down the village of Çaylarbaşı, near Lice in Diyarbakır province, and destroyed villagers' belongings and livestock, were also responsible for the "disappearance" of Ikram and Servet Ipek, inhabitants of the village.

Since 1995, in response to domestic and international criticism, the Turkish government has launched a string of projects supposedly to assist return: central villages, model villages, the Return to Village Program, the Return to Village and Rehabilitation Project. These ventures were so badly conceived, underfunded, and lacking in genuine political will that it appears they were mainly intended to deflect criticism rather than provide homes and protection. The centerpiece of the Return to Village and Rehabilitation Project announced in 1999 was a feasibility project for reconstruction of a representative village in each of twelve provinces that had been under a state of emergency. This survey was supposed to form the basis for a major (later) push on return. The report was unavailable to the public until 2004 when it was followed not by an expansion of the return effort but, as shown below, by plans for another survey.

Human Rights Watch's report *Displaced and Disregarded—Turkey's failing village return program*, published in October 2002, provides a full survey of the original displacement, the problems of the displaced, and the government's unconvincing return schemes, together with comprehensive recommendations about how to establish a program in line with the main human rights standards—the U.N. Guiding Principles on Internal Displacement.

Not much has changed for the displaced in the two years since that report was published. The government claims that 94,029 displaced persons returned to their homes in the southeast between June 2000 and December 2003, but as with earlier such claims, the government provided no details about the settlements to which returns had been made, nor did it give any information about whether it provided reconstruction assistance, which would have enabled observers to corroborate and evaluate the government's claims. Nongovernmental organizations working in the field state that to their knowledge returns continue to be slow and to receive little governmental support.

Obstacles to Return

Paramilitary Village Guards

Although the Return to Village and Rehabilitation Project also authorized regional governors to provide ad hoc support for returning villagers, Human Rights Watch's earlier research indicated that such support was more likely to be paid to displaced village guards than to villagers displaced by the security forces. At any rate, relatively few villagers have been encouraged to return to their homes, and it is clear that the countryside remains under the influence of the brutal and corrupt paramilitary village guards. The Interior Ministry admits that there are currently 58,416 village guards operating in the southeast, and that it has no plans to disband them, despite the fact that every survey of the returns problem (including one carried out by the Turkish parliament in 1995) urged the abolition of this corrupt and corrupting system.

Village guards were involved in the original displacement, and in the intervening years have continued to commit murders and abductions. In some cases village guards are now occupying properties from which Kurdish villagers were forcibly evicted evacuated by Kurdish villagers or using their vacant lands. They are prepared to use violence to protect their illegal gains. In 2002 village guards allegedly killed three villagers who returned to the village of Nureddin, in Muş province, and in June 2004 killed five villagers in pastures near the village of Akpazar, near Diyarbakır, in Ağrı province. In March 2004, inhabitants of Mağara village, near Idil, in Şırnak province, applied to the local courts to remove village guards from the homes from which they had been forcibly

evicted in the early 1990s. Their lawyer, Eren Keskin, who attempted to visit the village with a member of the Turkish Human Rights Association on September 9, 2004, reported that she was turned back at gunpoint by gendarmes. However, in another case in September in the same province, the authorities did evacuate village guards from nearby Sarı village in order to secure the return of the original inhabitants, members of the Assyrian minority.

On September 25, 2004, a village guard allegedly shot and killed Mustafa Koyun and wounded Mehmet Kaya in the village of Tellikaya of Diyarbakir. The villagers who were attacked had been forced to leave Tellikaya after they refused to join the village guard corps in the 1980s, and their lands had been occupied by village guards.

Some displaced persons have been told that they can only return to their homes if they join the village guards. In April former residents of Uluköy, near Kiziltepe, in Mardin province, who had been forced out of their homes in 1993 because they refused to join the village guards, were given permission to return to their village. However, when they attempted to enter the village, the local gendarmerie told them they would have to agree to village guard service. When the village headman asked for clarification, the governor reportedly told him that the villagers could return but that he could not be responsible for their safety. In the same month, villagers returning to Altınsu village, near Şemdinli, in Hakkari province, reported that the local gendarmerie commander held a meeting at which he demanded that returning villagers become village guards.

Unexploded Ordinance

Unexploded mines and ammunition present an additional risk for returning villagers. Thirty people were accidentally killed by mines and other explosives in the southeast during the first eight months of 2004. To date, however, the government has provided no guarantee that villages due for return will be cleared of unexploded ordinance.

Ongoing Expulsions and Renewed Violence

Villagers who have established a toehold in the cities are unlikely to risk an expensive and dangerous return to their former homes while there is a risk that they may be displaced a second time. A number of villages have been evacuated in recent years, including one during 2004. Villagers expelled in the 1990s from Ilıcak village, near Beytüşşebab, in Şırnak province, who returned in 2001, told the Diyarbakır branch of the Turkish Human Rights Association (HRA) that they were again forcibly expelled by gendarmes in July 2004. In response to protests by the Turkish Human Rights Association the local governor responded that the villagers had left their homes

voluntarily after attacks by Kongra-Gel. The villagers were returned to their homes with military assistance in late August.

Political violence resumed in the countryside after Kongra-Gel called off its ceasefire in June, creating a further obstacle for those attempting to return to the region. Clashes between security forces and armed militants, though at a lower level than in the early 1990s, risk damaging the increasing sense of stability in the region which had facilitated reform generally, and poses a threat that earlier brutal and widespread security operations against villages may be resumed.

Inadequate Response by the Turkish Government

Lack of a Transparent Reconstruction Program

The most convincing evidence of official support for return, apart from abolition of the village guard system, would be a transparent program of financial and material assistance in reconstructing houses and re-starting agriculture, but this has never been established. The government claims to have spent substantial sums on return, but as with other statistics, its figures are contradictory, and there is insufficient detail to establish whether any of the money allocated for returns actually benefited the displaced. At any rate, the amounts reportedly allocated are wholly inadequate. The president of Van branch of the Migrants' Association for Social Cooperation and Culture (Göç-Der) Gıyasettin Gültepe expressed astonishment that only one billion lira (\$667) had been allocated for returns in the provincial budget for Van where 284 settlements had been emptied. In August 2003, the Diyarbakır governor reported that the government had spent 1.5 trillion lira (\$US 959,000) to return 12,666 individuals to that province, an average of \$75 per person. These funds are clearly insufficient to facilitate return given that a feasibility project prepared for the Turkish government by the Turkish Social Sciences Association estimates the costs for the construction of a "central village" for the return of 2,500 villagers to Sağırsu village in Siirt province (supposedly an economically "realistic" option) to be approximately US \$ 4,715,000 an average of \$1,886 per person.

On July 27, 2004, the government passed a "Law for the Compensation of Damage arising from Terror and the War against Terror." Under the law, compensation assessment commissions will be established to assess damages and levels of compensation. However, these commissions will be composed not of independent assessors, but of ministry representatives headed by assistant provincial governors—the very authorities who presided over the original displacement and have performed so poorly in achieving returns. Thousands of displaced people have started to apply for

compensation under the law. It remains unclear whether this law will serve to channel funds to the displaced, or be a tool to avoid paying appropriate compensation.

The compensation provisions are restricted to events that took place within the emergency region, but forced migration also occurred from areas outside this area. In August Human Rights Watch spoke to two villagers of Yastik village, near Tercan, in Erzincan province, who had petitioned the Erzincan governor for assistance in returning to their village, which was evacuated in the early 1990s. The governor had replied that no assistance could be given with the repair and reconstruction of their bulldozed homes because Erzincan was not within the scope of the Return to Village and Rehabilitation program. At the same time the villagers received this disappointing response, they were fighting off a legal attempt by a local landowner to take possession of the land on which their village had stood.

The Role of the International Community

The European Union

The displaced were fortunate that the E.U. called for action on their behalf in the May 2003 Revised Accession Partnership. The partnership document requires that "the return of internally displaced persons to their original settlements should be supported and speeded up." The Accession Partnership is prepared by the European Commission, and lays out the requirements that Turkey must fulfil in order to meet the Copenhagen Criteria. The first partnership document, published in 1999, did not specifically refer to the displaced. The Turkish government's progress in meeting the requirements of the partnership is recorded in the Regular Report, which is issued yearly by the European Commission. In its most recent Regular Report, published in October 2003, the Commission accurately described the misery of the current situation of the displaced, the difficulties of return, and the inadequate government response:

The situation of internally displaced persons is still critical. A large number of those displaced live in extremely poor conditions on the periphery of cities and larger villages. Social and economic problems remain acute and unemployment rates are very high. Other concerns include the improvement of housing conditions, greater access to educational and health facilities and psychosocial care for women and children. Children are particularly exposed to physical, sexual and drug abuse as well as to police brutality. It is estimated that there are 10,000 "street children" in the Diyarbakır area.

Implementation of the Return to Village and Rehabilitation Project has continued, though at a very slow pace and inconsistently, some regions progressing quicker than others. According to official sources, 82,000 people were authorised to return to their villages in the period between January 2000 to January 2003. There is, however, concern regarding the lack of transparency and adequacy of consultation in the development of this project and disquiet about the absence of a clear strategy that explains the project aims, scope and budgetary implications. The number of areas where access is still prohibited has been reduced, but authorisation to return is still difficult to obtain. Although limited financial assistance has been provided to some returnees, there is a more general lack of financial resources to support return to villages, to compensate villagers for the destruction of houses or dwellings and to develop basic infrastructure in areas previously subject to armed clashes. There are reportedly many landmines in the region, which have resulted in casualties.

The issue of village guards remains unresolved. Several incidents have resulted in casualties, including the deaths of some returnees who had been authorised to return to their villages. Judicial procedures have been opened against some village guards involved in murders.

The 2004 Regular Report is expected to be published on October 6, together with an opinion as to whether or not Turkey has met the political criteria and should therefore move to the next stage of its candidacy, which would result in the setting of a date for negotiations to begin. Human Rights Watch is not aware of any developments that would justify a more optimistic evaluation of the situation this year.

U.N. Special Representative of the Secretary General on Internally Displaced Persons

In view of the very poor performance of the government's earlier return schemes, observers were particularly interested in the report of the U.N. Special Representative of the Secretary General on Internally Displaced Persons (SRSG), Dr. Francis Deng, who visited Turkey in 2002. The SRSG made a number of recommendations, including that the village guards should be disarmed and disbanded, which have been largely ignored by the Turkish government. The SRSG also made recommendation as to how the whole process could be galvanized by the active involvement of the international community. He stated that "What is critically important is that an opportunity now exists for the international community to work with the Government in facilitating the voluntary return, resettlement and reintegration of the displaced. An open and constructive

partnership involving the Government, civil society and international agencies would serve to facilitate the timely and effective implementation of the Government's return and resettlement policy." The SRSG went on to make recommendations for cooperation between the Turkish government and international governmental organizations with an interest in the return of the displaced.

Human Rights Watch believes that the best way to ensure a successful returns process would be for the Turkish government to commit to a plan of action that provides for the specific involvement of international organizations such as the United Nations High Commission for Refugees (UNHCR) and the United Nations Development Programme (UNDP), which are already working in Turkey and have the expertise and means to facilitate returns. The involvement of such U.N. agencies, as well as other relevant bodies such as the Organization for Security and Cooperation in Europe and the E.U., would ensure that any government return programs are in accordance with the U.N. Guiding Principles on Internal Displacement, and that the programs are actually implemented on the ground. This guarantee of quality and experience would also greatly facilitate attracting international funding.

Following the release of Deng's report, the Turkish government began a dialogue with the United Nations, World Bank, and the European Commission. In its 2003 Regular Report, the European Commission was upbeat, noting that the possibility of collaboration with the international community could be a significant step: "the question of internally displaced persons remains to be addressed, albeit the Turkish side has recently started, together with international partners, some promising initiatives." Although Human Rights Watch had hoped that this dialogue would signal the beginning of a successful return program, the Turkish government has failed to turn its dialogue into action. No full public account of the dialogue has yet been given, but the Turkish government announced that a technical experts group had held meetings in the first half of 2004. This group apparently agreed that additional research should be carried out to determine the actual state of returns and the scale of the remaining problem. Although U.N. members of this group reportedly suggested that the research be conducted jointly between the U.N. and Turkish institutions, the Turkish government instead funded the Population Studies Institute of Ankara's Hacettepe University to conduct the study. Given the Turkish government's reluctance to deepen engagement with intergovernmental bodies, this step appears to be only the most recent effort by the Turkish government to avoid internationalizing its displacement problem.

The Council of Europe

The Parliamentary Assembly of the Council of Europe (PACE), which had imposed human rights monitoring on Turkey in 1996 as a result of the patterns of gross human rights violations in the preceding years, lifted the mechanism in June this year in the light of progress since that date. However, as part of this decision, the assembly stressed that a number of issues required further vigilance. On the question of the internally displaced, it recommended that the government should *“move from a dialogue to a formal partnership with UN agencies to work for a return in safety and dignity of those internally displaced by the conflict in the 1990s.”*

The European Commission will, Human Rights Watch hopes, acknowledge this recommendation of the PACE in the 2004 Regular Report expected on October 6. PACE was right to draw a distinction between dialogue and collaboration. The Commission should take steps to address effectively the concerns it has already identified in the partnership document and successive regular reports, and use the accession process and the months before December to ensure that there has been concrete progress in this area. An effective partnership would require a formal agreement between stakeholders, a plan of action, a timetable, and a statement of the principles to be applied in the further development of the plan and its implementation.

Conclusion

The public of Turkey, which applied for E.U. membership in 1987, was shocked when Croatia was given a date for membership negotiations in June 2004 after having only applied in 2003. However, the Turkish government's policies stand in contrast to those of Croatia on the crucial question of displacement. It is significant that, despite shortcomings in the process, UNHCR and the OSCE were integrated in the development, implementation, monitoring, and funding of initiatives to address problems related to the return of Croatian Serbs who had been displaced to neighboring countries. It is inconceivable that Croatia would have made such progress if it had resisted partnership with the international community on this issue.

In the course of the fifteen-year armed conflict between the Turkish state and the PKK, Turkish security forces committed grave human rights and humanitarian law violations against the residents of the region, forcing many hundreds of thousands to flee their homes. For over a decade now, the Turkish government has consistently failed to acknowledge the widespread and severe human rights abuses committed by its security forces, much less to provide restitution to its victims or facilitate their return to their homes. Today over 380,000 persons remain internally displaced throughout Turkey, most living in poverty and despair. The displaced cannot afford to rely on government promises of good faith; they need to see concrete action. The international community,

if truly committed to resolving the plight of the IDPs of Turkey, can also ill afford to rely on verbal promises from the Turkish government. It must also insist on concrete action.

The role of international agencies has been repeatedly identified as a key element in an effective return process by all intergovernmental bodies that have looked at the situation in Turkey. It has also been given lip-service by the Turkish government which has declared that it is "determined to deal with [the return of the displaced] ... in cooperation with international bodies, especially the U.N. and the EU." In practice, however, the government continues to hold the international community at arm's length.

The Turkish government's failure to move from dialogue to action raises serious doubts about its good faith commitment to a successful returns process for those displaced by the armed conflict in the southeast. Without a formal partnership with international organizations, it is probable that the government will continue its ten year strategy of delay and ultimately never provide for the return of its internally displaced.

Nothing in the accession process to date has resulted in a fundamental change in the Turkish government's policies on the internally displaced. Its response has been wholly inadequate. The government can point to just three steps it has taken for the displaced. Firstly, it claims to have procured the return of a quarter of the displaced, but has never given any information about which villages have been repopulated, or what it has done to support their return. Secondly, it is working with UNHCR in arranging the return of a group of about 10,000 Kurdish villagers who fled from Şırnak province across the border to Iraq in 1994 when Turkish air force jets and helicopters bombed villages killing 36 villagers, including 17 children. Thirdly, it has passed a compensation law which cannot be assessed for effectiveness until well into 2005. The government cannot pass these measures off as effective action for the displaced while it continues to ignore the recommendations of the SRSG and the PACE for introducing an intergovernmental element into its return program.

To date, the E.U. accession process has managed to place the concerns of IDPs onto the Turkish government's agenda, but it has done little to resolve their plight or ensure that they are provided with financial compensation and reconstruction aid. The period from October – December 2004 – the time before the European Commission determines whether Turkey will get a firm date to begin membership negotiations – may provide a last opportunity for the displaced to obtain substantial assistance from the international community, which did absolutely nothing to prevent their original displacement.

Recommendation

It is improbable that the government can achieve anything significant on the ground between now and December. However, the government should formally and publicly commit to collaboration with the U.N. agencies (and where necessary the OSCE and E.U. institutions) in developing and executing a program for return and set out in detail the role that will be played by these international institutions in the return process, as well as the timetable for initiating such a program. If the Turkish government wants to fulfil the Accession Partnership requirement regarding internal displacement it will have to commit to concrete action, not merely continue the dialogue that it has engaged in to date. The only credible assurance that there will be a genuine process of return, and that it will be implemented in accordance with the U.N. Guiding Principles on Internal Displacement, is for international agencies with expertise regarding return of the displaced to have a specific and clearly identified role in the return process. Anything less than this should be viewed as inadequate by the European Commission.